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6 UNITED STATES DISTRICT COURT  
7 DISTRICT OF NEVADA  
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9 JAMES COREY McGEE,

10 Petitioner,

11 vs.

12 SECOND JUDICIAL DISTRICT  
13 COURT, WASHOE COUNTY, *et al.*,

14 Respondents.

3:12-cv-00668-RCJ-WGC

ORDER

15 This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254,  
16 by a Nevada state prisoner. Neither a filing fee nor an application to proceed *in forma pauperis* was  
17 submitted with the petition. Petitioner must either submit the \$5.00 filing fee or an application to  
18 proceed *in forma pauperis* when filing a habeas corpus petition. It does not appear from file review  
19 that a dismissal without prejudice will materially affect a later analysis of the timeliness issue or  
20 other issues in regard to any promptly filed new action. The present improperly-commenced action  
21 therefore will be dismissed without prejudice.

22 **IT THEREFORE IS ORDERED** that this action is **DISMISSED WITHOUT**  
23 **PREJUDICE** to the filing of a new petition in a new action.

24 **IT FURTHER IS ORDERED** that the Clerk of the Court shall send petitioner two copies of  
25 an *in forma pauperis* application form for a prisoner, one copy of the instructions for the same, two  
26 copies of a blank 28 U.S.C. § 2254 habeas petition form, and one copy of instructions for the same.

**IT FURTHER IS ORDERED** that a certificate of appealability is **DENIED**, as jurists of reason would not find the dismissal of this improperly-commenced action without prejudice to be debatable or wrong, given the absence of any collateral prejudice from the dismissal.

Dated this 15th day of January, 2013.

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